

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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WILLIAM A. KRIEGER,

Petitioner,

Case No. 05-C-564

v.

JODINE DEPISCH, Warden,  
Fox Lake Correctional Institution, and  
PEGGY LAUTENSCHLAGER,  
Attorney General of Wisconsin,

Respondents.

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**OPINION AND ORDER**

Warden Jodine Depisch, the Respondent in this habeas corpus action has moved to dismiss William Krieger's Petition on the ground that it was not filed within the one-year period of limitation established by 28 U.S.C. § 2244(d). The Petitioner, who is represented by counsel, has not filed a timely response.

Documents submitted by the Respondent show that Krieger's state appeal became final in October of 1991. He filed his Petition in this court on May 23, 2005. Krieger has not claimed actual innocence or any basis for equitable tolling. Therefore the court will grant the motion.

Because Krieger's Petition was untimely filed, the court ORDERS that the Respondent's "Motion to Dismiss Petition for Writ of Habeas Corpus for Untimeliness" (filed July 11, 2005) IS GRANTED. See 28 U.S.C. § 2244(d).

IT IS FURTHER ORDERED that William Krieger's "Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody" (filed May 23, 2005) IS DENIED AND DISMISSED.

IT IS FURTHER ORDERED that the Clerk of Court shall enter a judgment of dismissal as a separate document. See Federal Rule of Civil Procedure 58. This judgment shall provide that:

Petitioner William Krieger brought a Petition for habeas corpus relief before the court, the Honorable Thomas J. Curran, District Judge, presiding, and the Petition having been denied and dismissed because it was untimely filed,

IT IS ORDERED AND ADJUDGED

that this action is dismissed with prejudice.

Done and Ordered in Chambers at the United States Courthouse,  
Milwaukee, Wisconsin, this 9th day of August, 2005.

s/ Thomas J. Curran  
Thomas J. Curran  
United States District Judge